

# Housing Benefit

## General Information Bulletin

Department for Work and Pensions, 6<sup>th</sup> Floor, Caxton House, Tothill Street,  
London SW1 9NA  
<https://www.gov.uk/government/organisations/department-for-work-pensions>

ISSN 2054-2836 (Online)

**HB G3/2014**

**17 March 2014**

<b>Contact</b>	Queries about the <ul style="list-style-type: none"><li>• <b>technical content of this bulletin</b>, contact details are given at the end of each article</li><li>• distribution of this bulletin, contact <a href="mailto:housing.correspondenceandpqs@dwp.gsi.gov.uk">housing.correspondenceandpqs@dwp.gsi.gov.uk</a></li></ul>
<b>Who should read</b>	All Housing Benefit (HB) staff
<b>Action</b>	For information

## Contents

	paragraph
Benefit Cap end of project.....	1
Benefit Cap uprating.....	7
Memorandum of Understanding between DWP and LAs.....	10
Personal Independence Payment: learning lessons .....	14
Statutory Instruments.....	24
HB/CTB decisions by the Upper Tribunal.....	26
What's new on the web.....	29

**Crown Copyright 2014**

Recipients may freely reproduce this bulletin.

## Benefit Cap end of project

1. Following the successful implementation of the benefit cap across all local authorities (LA) in Great Britain (GB), the Benefit Cap Project formally closed on 20 February 2014.
2. Belfast Benefit Cap Processing Team will continue to administer the benefit cap as they have during implementation. To contact the team, LAs should use the email template and send it to [benefitcap.belfastnationalteam@dwp.gsi.gov.uk](mailto:benefitcap.belfastnationalteam@dwp.gsi.gov.uk)
3. Department for Work and Pensions (DWP) will continue to provide a generic email box for LAs to use for general or policy enquiries [la-benefit.capnational@dwp.gsi.gov.uk](mailto:la-benefit.capnational@dwp.gsi.gov.uk)
4. Benefit cap information for claimants, including the benefit cap calculator is available on the [GOV.UK](http://GOV.UK) website.
5. Statistics on numbers of households affected by the benefit cap are also available via the [GOV.UK](http://GOV.UK) website.
6. Finally, we have committed to a full evaluation of the benefit cap and we expect this to be published during autumn 2014.

## Benefit Cap uprating

7. From 7 April 2014 the Belfast Cap Calculation Team (BCCT) will begin reviewing cases that are currently capped and have had their benefits uprated. In agreement with the LA Practitioners Operational Group (POG) all cases will be reviewed over a six week period. BCCT will send one Automated Transfer to Local Authority System (ATLAS) file for each case that will include details of all new HM Revenue and Customs and DWP benefit rates. The change should take effect from the Monday following the day that the LA process the ATLAS record.
8. Any claimants, not currently capped, who, as a result of uprating receive benefits above the cap limit will be identified in the normal way and an 'apply cap' file sent to the LA.
9. To help reduce the impact of changes of circumstances on LAs, including uprating, DWP funded the three main LA software suppliers to develop software to automate revisions to the benefit cap in an agreed set of scenarios, including uprating. This function should be available on the three main software systems. If you have any questions regarding this function please contact your supplier.

## Memorandum of Understanding between the DWP and LAs

10. The DWP recently sought approval of POG members to extend the duration of the current Memorandum of Understanding (MoU) between the DWP and LAs '*Handling and protection of Department for Work and Pensions customer data*' beyond the current expiry date of 31 March 2014.
11. POG members agreed to this course of action. Therefore the current version of the MoU will remain in force until superseded.
12. In the meantime where a new data sharing opportunity is established DWP will take action to advise LAs.

## Queries

13. For further information on the content of this item please contact:

[hbsdsecurity.team@dwp.gsi.gov.uk](mailto:hbsdsecurity.team@dwp.gsi.gov.uk)  
[malcolm.mattack@dwp.gsi.gov.uk](mailto:malcolm.mattack@dwp.gsi.gov.uk)

## Personal Independence Payment: learning lessons

14. As reported in [HB G1/2014](#), we are inviting some Disability Living Allowance (DLA) claimants to claim Personal Independence Payment (PIP): if their disability-related needs change; they reach age 16; or if they reach the end of their award. This is known as reassessment.
15. Reassessment is taking place in Wales, the Midlands, parts of East Anglia and postcodes beginning CA, DG, DL, EH, HG, LA, ML, TD and YO. The [PIP postcode map](#) and the [timetable for PIP replacing DLA](#) detail these reassessment areas and when they came into effect.
16. An individual can choose to claim PIP instead of their DLA if they were under the age of 65 on 8 April 2013 and they live in a reassessment postcode. We will explain what will happen to them if they choose to do this, for example their DLA will end. We will also advise them that their benefit can go down as well as up.
17. Because the process is taking longer than originally anticipated, we are introducing reassessment in a more gradual way. Decisions to further extend reassessment will be informed by what we learn from our experiences in the areas listed above. Alongside the phased introduction of reassessment, we are continuing to take new claims for PIP across GB.
18. The time between making the initial claim and getting a decision on PIP entitlement is expected to be about 12 to 15 weeks. However, claims for PIP are currently taking longer than expected. The actual time to get a decision on a claim depends on individual circumstances. In some cases it can take about 21 to 26 weeks.

19. We are taking steps to speed up the claims process. We have made improvements to our staff guidance and automated parts of the process to help speed things up. And we are looking at parts of the process administered by the assessment providers. Any delays experienced by the claimant will not affect the date their benefit is paid from.
20. We are working with our stakeholders, including Macmillan, and assessment providers to make improvements to the fast-tracked PIP claim process for terminally ill people. We have already made some improvements and cleared cases that were held up.
21. In February 2014, we introduced a dedicated telephone service for special rules claims. To make a claim under the special rules for those who are terminally ill, callers phone the usual new claims line: 0800 917 2222. They select option 1 to make a new claim and then select option 3 from the recorded message. A dedicated team take the call and complete the claim process.
22. We are currently developing further improvements to this claim process and will keep you informed as this work progresses.

## Queries

23. Visit [gov.uk/dwp/pip-toolkit](http://gov.uk/dwp/pip-toolkit) for more information about PIP and what's happening when. Send any questions or comments to:  
[pip.feedback@dwp.gsi.gov.uk](mailto:pip.feedback@dwp.gsi.gov.uk)

## Statutory Instruments

24. The following Statutory Instruments (SIs) has been laid:

- 2014 No.367, The Social Security Revaluation of Earnings Factors Order 2014, coming into force 6 April 2014
- 2014 No.368, The Social Security Pensions (Low Earnings Threshold) Order 2014, coming into force 6 April 2014
- 2014 No.369, The Social Security Pensions (Flat Rate Accrual Amount) Order 2014, coming into force 6 April 2014
- 2014 No.459 (C.21), The Mesothelioma Act 2014 (Commencement No.1) Order 2014, coming into force from 31 March 2014
- 2014 No.463 (C.22), The Pensions Act 2008 (Commencement No.15) Order 2014, came into force 13 March 2014

- 2014 No.468, The Energy Act 2013 (Improvement and Prohibition Notices Appeals) Regulations 2014, coming into force 1 April 2014
- 2014 No.469, The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014, coming into force 1 April 2014
- 2014 No.485, The Social Security (Fees Payable by Qualifying Lenders) (Amendment) Regulations 2014, coming into force 1 April 2014
- 2014 No.486, The Health and Safety (Miscellaneous Repeals and Revocations) Regulations 2014, coming into force 6 April 2014
- 2014 No.515, The Guaranteed Minimum Pensions Increase Order 2014, coming into force 6 April 2014
- 2014 No.539, The Housing Benefit (Habitual Residence) Amendment Regulations 2014, coming into force 1 April 2014
- 2014 No.576 (C.24), The Child Maintenance and Other Payments Act 2008 (Commencement No. 13) Order 2014, coming into force from 9 March 2014

25. Copies of SIs can now be downloaded from DWP's own website

<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> and the website of the Office of Publication Sector Information <http://www.opsi.gov.uk/stat.htm>

## **HB/CTB decisions by the Upper Tribunal**

26. Decision Making and Appeals (DMA) Leeds is aware of the following HB/CTB cases that have been decided by the Upper Tribunal:

- CH/3295/2012: Claimant appeal. Remitted. Natural justice - insufficient evidence to allow the Upper Tribunal Judge to determine the presenting officer was NOT in the hearing room with the First-tier Tribunal judge before the claimant was invited in
- CH/1277/2013: Claimant appeal. Substitution. HB overpayment. A "one off" catalogue of errors and mistakes by claimant, tenant (not the claimant), LA Housing, LA Benefits, and the First-tier Tribunal. No evidence of a revision/supersession decision leading to the overpayment decision that the claimant should be treated as having appealed. LA can start again but should have reference to the errors/mistakes identified by the Upper Tribunal Judge
- CH/1750/2013: LA appeal. Substitution - dismissed. CTB overpayment. First-tier Tribunal determined official error overpayment about which the claimant could not reasonably be expected ... . This finding was subjective rather than objective as in *B, SN v. Hounslow*, and *R(Sier) v.*

*Cambridge*, but the result would have been the same even with a correct analysis of materiality

- CH/4085/2012: Claimant appeal. Substitution to same effect but for a shorter period, with liberty to apply. HB/CTB overpayments. Official error by Secretary of State causes overpayment but claimant not liable for overpayment until date she was notified by the Secretary of State of Widowed Mothers Allowance arrears entitlement
- CH/725 and 741/2013: Claimant appeals. Substitution - tribunal decisions to review their decisions without force or effect - the previous tribunal decisions remain in place. The tribunal cannot review its own decision on its own initiative, only following an application for permission to appeal
- CH/2889/2013: Claimant appeal. Remitted. Tribunal failed to provide satisfactory findings of fact as to income and capital, and addressed sufficiency of the claimant's evidence rather than entitlement
- CH/2891/2012: Claimant appeal. Remitted to LA decision maker (DM) for an appealable decision to be made. Following R(H) 3/05 and CH/67/2010, due to the claimant's failure to provide sufficient evidence the DM had incorrectly declined to make a decision and there was no valid appealable decision before the tribunal
- CH/1381/2013: Claimant appeal. Remitted. HB/CTB overpayment. Official error - tribunal did not consider what the claimant could reasonably be expected to realise, and other errors
- CH/2001/2013: LA appeal. Substitution to same effect. HB/CTB overpayment. Numerous errors in LA case
- CH/2650/2013: LA appeal. Dismissed. HB/CTB – Living together as husband and wife (LTAHAW) disallowance and overpayment. DWP DM disallowed Income Support (IS) - LA followed without making any findings of fact on LTAHAW, and failed to assess HB/CTB entitlement based on claimant's (and partner's) income (Upper Tribunal Judge applies *Menear et seq*)
- CH/2716/2013: Landlord appeal. Remitted. HB overpayment. Insufficient findings of fact concerning: when LA was notified by tenant about his change of circumstances and intentions; Regulation 100 - official error; and Regulation 101(2) - from whom to recover. [Upper Tribunal Judge refers to landlord's son as "claimant" throughout rather than "appellant" - landlord had died and appellant (new landlord) is his son, however, First-tier Tribunal had confused matter by referring to two different people as "appellant".]
- CH/3387/2013: Claimant appeal. Allowed. HB/CTB overpayment. Official error - claimant not reasonably expected to realise she was being overpaid. The award/decision notices did not breakdown "Any other

income (converted to weekly)" in terms that the claimant might have recognised, or what income and disregards made up the amounts quoted

- CH/2067/13: Regulation 13(D)(2)(b). "Exclusive use" means the legal right to exclude others
- CH/2911/13: Capital. Property in Spain. The tribunal should have addressed the capital value and disregard as separate issues

## Queries

27. Decisions of the Upper Tribunal are published on their website which can be found here:

<http://www.administrativeappeals.tribunals.gov.uk/Decisions/decisions.htm>

28. If you have any queries about cases before the Upper Tribunal Judges or courts, please contact us by

Email - at: [fldmdma.customersupportservices@dwp.gsi.gov.uk](mailto:fldmdma.customersupportservices@dwp.gsi.gov.uk) or

Fax - on: 0113 2324841

## What's new on the web

29. The following items can be found on the website link shown

Document Type	Subject	Link
<b>HB A1/2014</b>	The Housing Benefit (Transitional Provisions) (Amendment) Regulations 2014	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279841/a1-2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279841/a1-2014.pdf</a>
<b>HB A2/2014</b>	The Housing Benefit (Miscellaneous Amendment) Regulations 2014	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279844/a2-2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279844/a2-2014.pdf</a>
<b>HB A3/2014</b>	Minimum Earnings Threshold	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284913/a3-2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284913/a3-2014.pdf</a>
<b>HB A4/2014</b>	R v The London Borough of Lewisham and the Secretary of State for Work and Pensions, ex parte Mahmoudi	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286380/a4-2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286380/a4-2014.pdf</a>
<b>HB A5/2014</b>	Housing Benefit operational information, performance support and inspection in 2014/15	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/289533/a5-2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/289533/a5-2014.pdf</a>

<b>HB G2/2014</b>	<p>Information pack for LAs using Direct Earnings Attachments</p> <p>Personal Independence Payment statistics released</p> <p>Irish Government 'ex gratia' payments to workers in Magdalen laundries</p> <p>HB decisions by the Upper Tribunal/ HB cases awaiting decision by the Upper Tribunal</p> <p>Statutory Instruments</p> <p>What's new on the web</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/281432/hb-bulletin-g2-2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/281432/hb-bulletin-g2-2014.pdf</a></p>
<b>HB U2/2014</b>	<p>Court of Appeal Judgement: MA and Others</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/287490/hb-bulletin-u2-2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/287490/hb-bulletin-u2-2014.pdf</a></p>
<b>HB Direct issue 146 March 2014</b>	<p>Newsletter</p>	<p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286386/hb-direct-issue-146.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286386/hb-direct-issue-146.pdf</a></p>

### HB circulars recently issued

HB A1/2014  
HB A2/2014  
HB A3/2014  
HB A4/2014